Adawlet Regulation

Book

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Regulations for the administration of Justice in the Provincial Courts of Adawlut, and in the Court of Appeals in the Province of Mallabar.

Superintendent to be Judges excce=pt in the town of Calicut, and district of the Supravisorship.

1st

That the Office of Judges of the Provincial Courts (being those under the Superintendents) be respectively held by that person who hath, or shall hereafter have, the charge of the revenue in each respective place with the exception of the Court now established in the capital City of Calicut which is to continue independent of any Superintendency, for the decision of all causes originating within the limits of the said City and district thereunto annexed.

2d

That every person appointed a Judge of any Provincial Court before he shall enter upon the execution of his Office, do before the Governor in Council of Bombay or such person as shall by the Governor in Council be deputed to administer the same or the Supravisor, and Chief Magistrate of the Province of Mallabar, take and subscribe an Oath in the following words

Oath to be taken by the Judges

"I do swear that I will administer "Justice to the best of my ability, knowledge and judgement without fear, favor, promise or hope of reward, "and that I will not receive directly or indirectly any "present or nuzzer, either in money or effects of any "kind from any party in any cause, or from any "person whatsoever, on account of any suit to be instituted, or which may be depending or have been "decided in the Court of adawlut under my jurisdiction nor will I knowingly permit any person "or persons under my authority, or in my immediate service to receive directly, or indirectly any pre-

"present or Nuzzer either in money or in effects of
"of any Kind, from any party in any cause or from any
"person whatsoever, on account of any suit to be instituted
"which may be depending, or have been decided in the
"Court of Adawlut under my jurisdiction and that
"I will render a true and faithful account of all
"sums received as deposits on causes and fees of Court,
"and of all expenditures."

3.d

Native Officers to be appointed and removeable by the Judges, subject to the approbation and Confirmation of the Chief Magistrate.

That the Judges of the Provincial Courts respectively, may appoint the native Officers, Peons, and other servants thereof, conformably to their respective establishments, and may from time to time, remove such Officers; and may from time to time, when any vacancy shall happen, appoint any other person duly qualified, to the Office which shall become vacant, Provided, and it is hereby ordered, that an exact register of the names and departments of all such Officers be transmitted to the Chief Magistrate, in his separate capacity as Judge of the Court of Appeals, and that his approbation be obtained of their respective nominations, and when vacancies shall happen either by death, or resignation, or removal of any such Officers the same with the dates, and circumstances thereof, be also reported to the Chief Magistrate, who, if such removal shall appear to have been made without just, and sufficient cause, may order such person or persons to be reinstated, in his or their Department, or otherwise confirm the same, after which the filling up of the vacancy shall be subject to his approbation as in the case of primary nomination. And

The Judge to take penal obligations & security from his Officers for their good behaviour

the Judge is hereby required to exact Mochulkah or penal obligations, from all his Officers for their good behaviour, and integrity in discharge of

their

their respective functions equal to one years amount of their respective allowances, the originals of all which obligations are to accompany the register of their nomination, when submitted to the Chief Magistrate for his approval and shall remain and be filed on record in his Court and their amount to be recoverable, and shall be strictly realized from any of the parties incurring the penalty by judgement of the Judge in his Court of Adawlut, liable to appeal if the party be dissatisfied, in like manner with other causes, with however this special exception in the mode of trying this class of causes (vizt those founded on the penal obligations, and securities to be given and entered into by the native officers) that the Chief Magistrate may at origine in his discretion bring all such causes directly before his own tribunal, and hear, try, and decide on them in the first instance reserving to the party thus tried the same benefit of appeal to the Governor in Council of Bombay as herein after provided for causes in general.

Causes founded on which, may be tried in the first instance before the Chief magistrate

4th

Oath to be taken by the Register and native officers

That the Register, and native Officers do take and subscribe in open Court before the Judge of the Provincial Court of Adawlut to which they belong the following Oath.

"I will truly and faithfully perform "the Office of — of this Court, according to the best "of my knowledge, and ability, and I will not "receive directly or indirectly any present or "Nuzzer, either in money or in effects of any kind, "from any party in any cause, or from any per"son whatsoever on account of any suit to be ins"tituted, or which may be depending or have been "decided in the Court of Adawlut in which I am" "and that the Pundits do take the following Oath,

(or

"or if to take an oath be contrary to their principles)
"that they do make and subscribe the following declara-
"tion" "I will faithfully execute the Office and trust
"of a Pundit in this Court, on questions put to me
" in writing or by word of mouth, in the said Court, or
" any Judge thereof; what is in the Shaster or what
"are the Malabar established customs I will declare
" or give in writing: I will declare nothing not &
" warranted by the Shaster or by such established
" customs if I declare any thing not warranted by
"the Shaster or by such established customs, or by
"such established customs, or shall omit clearly to
"point out the distinction that exist in practice &
" between the one and the other I shall be deser-
" ving of punishment from Eeshur, and
" I promise and swear not to accept of any
" Consideration in money, or otherwise for any
" opinion or declaration of the Law I may
" deliver as Pundit of this Court."

5th

Duties of the Register and Daroghas

That it be the duty of the Register in each Provincial Court of Adawlut, to assist the Judge there of by making translations of such papers as the Judge may require to be translated, and to do all other official acts which may be prescribed to him by the said Judge. That the Judge be authorized to empower the Register to hear and receive evidence in any cause, and to pass sentence in causes where the value contested shall not exceed the sum of sixty four Hoons, or two hundred Rupees, or if the suit be for land, where the public Government rent thereof shall not exceed sixty four Hoons ꝑ annum all such acts to be performed in open Court on extra days, when the Judge shall not sit himself; and such

decrees

decrees to be signed by the Register, and counter signed by the Judge as a mark of his approbation without which such decree shall not be valid. That the darogha of each Court do, after the rising of the Court procure all acts of the Court to be executed, and do assist the Register in arranging and keeping the records, muniments and papers of the Court; but that he do not in any other manner, on any pretence whatsoever, publicly, or privately interfere in any cause, matter, or thing depending before the Court, or which may be intended to be brought before the Court. That the Judge of every Court, may allot, and assign to the respective Officers of the Court, the particular business which shall be respectively done, and performed by such Officers.

6th

Powers vested in the Provincial Courts to frame and propose standing orders.

That the Provincial Courts of adawlut, respectively, shall have full power, and authority to frame and make standing rules and orders of practice for the administration of Justice; so that the same be not used in the said Courts, until they have been transmitted to the Chief Magistrate in his Court of appeals, under the Official seal and signature of the Judge of the Court, in which they shall have been framed and have upon transmission from the Chief Magistrate, been ratified, and approved whereupon they shall become rules not only of the Court which framed the same, but of all the other Provincial Courts of adawlut.

7th

Register's fees

That the following table of fees

fees be established for the Registers of the Provincial Courts of adawlut–

Table of fees

1.st For registering every decree where the cause of action does not exceed twenty Rupees to be levied on the sum decreed after the rate of	1¼ Pr. Cent
2.d Ditto not exceeding forty Rupees	8 annas or one half Pr. Cent
3.d Ditto one hundred Rupees and all sums above that	1 Rupee Pr. Cent

These fees are to be paid to the Register by the party gaining the cause, but the Court shall oblige the party loosing his cause to reimburse him. And that for preventing all excessive or & under demands of fees, the Judges shall cause one copy of the foregoing table in the English & language and a faithful translate thereof in the Malabar Tamool, and Kannary languages, & written in a fair and ligible hand, to be affixed in some conspicuous place in the rooms where the said Courts shall be respectively held–

8th

Seal for the Provincial adawluts

That the provincial Courts of adawlut, respectively, shall have and use a seal, on which shall be cut in the Malabar language and Characters, the name of that & Court to which it shall belong, which seal shall be and remain in the custody of the Judge thereof,

9th

Where the Courts are to sit, and how to pass orders &c &c.

That the Provincial Courts of & adawlut, be respectively held in a large and convenient room or other apartment in that Town or place where the Judges thereof shall for the time being, whether at the seat

of the Superintendency, or otherwise within the limits thereof be resident, two days in every week and oftener, if occasion shall require, and that no rule, order, proceeding, or decree of the said Court be made, but on Court days, and in open Court —

10.th

Matters cognizable in the Adawlut Courts

That the matters cognizable in the Provincial Courts of Adawlut be all disputes concerning property, whether real, or personal, all causes of inheritance, marriage or Cast, all claims concerning the right, and succession to the property in possession of, and inheritance to lands of whatsoever description, and denomination, or concerning disputes regarding the boundaries thereof; all matters relating to debts, accounts, contracts, mortgages, & partnership and so forth and in general all subjects of litigation being of a civil nature, and not concerning revenue —

11.th

Regulations relative to Peons

That the Judges of the Provincial Courts do, in every case where they may find it necessary to employ the Peons of the Court, furnish the said Peons so employed, with a written order under their respective official seals and signatures, expressive of the of the duty and purpose for which they are dispatched and do also issue public notice that any person acting without a warrant, shall be liable to punishment on complaint made to any of the Judges of the Provincial Courts, and the Judges are authorized to punish all offenders in this behalf by a fine not exceeding two Boons, or imprisonment for a term, which shall not exceed ten days —

12th

Local jurisdiction of the Courts

That the jurisdiction of the Provincial Courts of Adawlut of which the

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Superintendents are Judges have the same extent as their Superintendencies respectively.—

13th

Penalty for commencing in a different adawlut a second suit for the same cause of action

That in every case where a suit has been instituted in one Provincial Court of Adawlut in which such suit is cognizable, it shall not be competent for any other Provincial Court of Adawlut to entertain any suit for the same cause of action and proof being made in any Court in which a second suit shall be commenced on the same cause of action that the prior suit has been instituted in such other Court for the same cause of action the Court in which the second suit shall have been brought, shall dismiss the same with costs to be paid by the parties therein.—

14th

Description of revenue Causes which the adawluts are not to interfere in

That the powers and authorities hereby given and delegated, do, in no wise extend to or be construed to extend to authorize any Provincial Court of Adawlut to entertain any suit or cause for any matter or thing directly or indirectly relating to the public revenue, nor concerning any demand of Government on Land-holders, Farmers, securities, collectors, or others employed in the collections, or in any wise responsible for the revenues, or any demands of Land holders, Farmers securities, or Collectors, or others employed in the Collections, on their under farmers securities, inferior land-holders, and collectors, and others from whom rents or revenues have been immediately due nor any demands for rents or revenues on persons employed in the collection of them, officially, or hereditary in the different gradations down-ward from Government to the Ryott, or immediate occupants of the soil, nor again in the same manner of any Ryott, and persons of any of the above mentioned denominations against the persons to whom they pay the revenues in the different gradations upwards for irre-

gular

jects, and undue exactions; (since all the above enumerated causes are to be heard tried and determined by the Superintendent in his revenue Cutcherry with the same regularity, form and regard to a strict and impartial administration of Justice, as is required for other causes not relating to the revenue) nor to confirm to any heir the succession to lands [illegible] originally granted for the life of the incumbent, or on conditions which render the grant resumable by Government; nor to give any decree, in any suit, concerning the succession or inheritance to any land or house where there be more claimants than one, who by the Hindoo or Mussulman law or the common or customary law of the Country, (respect being had to the religion of the Claimants, and to the usage [illegible] of the common law in such particular case, as herein after provided, and pointed out, would be entitled to the same) except the same be by such decree adjudged to all the claimants in such proportions as they shall be entitled to by the law of that religion which the claimants profess —

Margin: nor to pass a decree relative to the right of property in lands, without including all those who have an interest therein

15th

Nor to authorize the Provincial Courts of Adawlut to hear, try and determine any suit whatsoever except founded on mortgage or debt, against any persons, where the cause of action shall have arisen before the first day of the month Cuwar in the [illegible] 963, or the [illegible]th of September in the year of our Lord one thousand seven hundred and eighty seven unless the Complainant can prove to the satisfaction of the Court, that being a minor he had been precluded from the means of applying for redress.

Margin: Term fixed for Causes being actionable

16

Nor to hear, and entertain any cause, which from the production of a former decree, or from

Margin: Causes once determined not to be ag[ain] [illegible]

5

from the records of the Court, shall appear to have been heard and determined by any former Judge or Superintendent, there being competent jurisdiction, nor to give any [illegible] in any suit of which any interest in any form shall [illegible] the rate of 12 per Cent. per Annum [illegible] where a lower rate of interest shall have been specified between the parties in all which cases such particular stipulations for lower interest to be [illegible] thereto.

Rate of Interest.

17th

That every Provincial Court of Adawlut be authorized and be declared to have full power, jurisdiction and authority to hear, try and determine all suits of the nature which have been or may be commenced therein for the [illegible] within where the land or house [illegible] the matter of contract of which shall be [illegible] and in all other causes where the cause of action shall arise, or the defendant at the time the suit commenced shall reside or be placed [illegible] within the District, place over which the jurisdiction of such Court is hereinbefore declared to be extended.

Limitations as to the [illegible] cognizable in point of time and locality

18th

That every complaint which shall be presented to any Provincial Court of Adawlut shall state the matter of complaint and if the same be concerning any land or house not paying revenue shall state the annual produce thereof and if the land or house pay revenue the [illegible] of annual revenue to Government and if such complaint be concerning any money or valuable thing or concerning marriage [illegible] then the sum of money or value of the thing demanded or the sum in which the plaintiff is damnified together with the name of the person complained against and the

What any Complaint shall contain

the time when the cause of action accrued; and such complaint shall be signed by the complainant or his Vakeel properly authorized and shall be likewise signed and numbered and dated in the order in which the same was received by the Judge of the Court, and shall be registered in a book kept by the Register or officer of the Court whose particular duty it shall be to copy and register such complaint.

Every complaint to be registered by the Register.

19th

Process to be observed in the [illegible]

That any person whatsoever by himself or his Vakeel may, for any of the causes hereby made and declared to be cognizable by the Provincial Courts of Adawlut, prefer a complaint in writing to that Court to which the cognizance of his cause shall belong whereupon the said Court shall issue a Pubblichitty, or summons, to the defendant, which summons shall contain a short account of the nature of the demand contained in the complaint and shall require such person to appear at a certain time, in the Provincial Court of Adawlut to make answer to the said complaint which summons shall be served by the Nazir or his inferior ministers on the defendant if he can be found and the Nazir or his inferior ministers shall enforce obedience to the same by compelling such defendant to appear: or the said Court may authorize the Nazir to take security in such sum as the Court may direct for the appearance of the defendant and the Nazir shall

be [illegible]

return on the day appointed in the summons the
summons with an endorsement thereon specifying
in what manner he hath executed the same and if
the defendant shall appear the Court shall fix a
certain day according to the discretion of the Court
for him to make answer, and may take good
and sufficient security that the Defendant shall
on the day fixed, make answer to such complaint,
and shall abide by and perform whatever order
as by the Court shall be made in the cause and unless
the defendant shall find such good and sufficient
security, he shall be committed to close custody until
he shall have answered and performed the decree
of the Court, or given such security as aforesaid and
when the said defendant shall have made answer
to the complaint, the Plaintiff shall on the next
Court day reply to the same, but shall not be permitted
to introduce by his replication any matter
whatsoever, which was not contained in his bill
of Complaint, but shall either confess the answer
of the defendant to be true or shall simply and
shortly deny the truth of such facts contained
therein, or the competency of the answer and the
Defendant shall on the same day, immediately
rejoin to the same but shall not be permitted to
introduce by his rejoinder any matter not con-
tained in his answer, but shall simply deny
the truth of the replication of the Plaintiff in
such parts as he means to dispute and aver
the truth, and competency of his own answer

and

and no further pleadings whatever shall be admitted in the cause, but if by mistake or inadvertence or any other cause the Plaintiff shall have omitted to insert in his complaint any thing material in the cause, on stating the same to the Court either by himself or his council, the Court may permit the Plaintiff to prefer a supplemental complaint stating such matter, to which the defendant shall be at liberty to put in, on a day to be fixed for that purpose, another answer; and the Plaintiff and Defendant shall reply and rejoin, in the same manner and no other as they shall have done in the original complaint. And if the defendant shall in like manner by mistake or inadvertence or any other cause, have omitted to insert in his answer any thing material to his defence, on stating the same to the Court either by himself or his council, the Court may permit the defendant to put in an additional or supplemental answer, to which the Plaintiff and defendant may reply and rejoin, in the same manner, and no other as they shall have done in the original answer, so that no more than one supplemental complaint, or one supplemental answer be received by the Court. And when the rejoinder shall have been put in, and the several causes thereby be thus in issue, the Court shall immediately fix a day and shall on the day fixed (eight days notice whereof shall be given to the

parties)

14)

parties) or as soon after as the business of the
Court will permit examine the truth thereof
by the oaths of the parties, if they mutually con-
sent to the same, also of such witnesses as
shall be brought by both parties, if such par-
ties have any witnesses to produce, and for
that purpose the Courts of Provincial Justice
may on the requisition of any Plaintiff or De-
fendant, or their vakeel issue a summons to such
witness as the parties shall name not being
a Magistrate or Native woman of rank
respectively being such as according to the usage and
prejudices of the natives of this Country,
shall be found to render it improper to compel
her to appear in open Court of Justice, or
specifying at whose request the summons shall
have issued and requiring them to appear in the
Provincial Court of [illegible] on the day named
in the summons, there to depose concerning the
matters in the dispute between the parties and
if such witness so summoned shall not attend
on the day appointed, or attending shall refuse
to give evidence, or to subscribe his deposition
as is herein after required, the Judge of the
Provincial Court of [illegible] may in that
case, if it shall be proved to his satisfaction
on Oath that the witness was material to the
cause, issue an order to the Judge to dispatch and
bring such witness not attending before the
Court, who shall and may inflict on such
witness

Manner of summoning witnesses and of taking their evidence —

witness not having attended or refusing to give evidence, a fine not exceeding five Rupees, and may commit such witness to close custody until he shall consent to give his evidence, and sign his deposition on the same; and if any witness attending in consequence of such summons appear, who shall have incurred any expense in consequence thereof, the Court may award to him such sum of money for the same as the Court shall think reasonable, be the witness examined or not, and if the sum so awarded shall not be paid immediately or secured to the witness to the satisfaction of the Court, the party at whose requisition the witness was summoned (if such party and two credible witnesses shall not have taken the oath hereafter required in cases of poor persons not able to pay the deposit money, fees and costs) shall not only loose the benefit of the said persons testimony, but shall be compellable to pay such witness the sum so awarded, and for that purpose after the decree shall be passed in the cause shall by order of the Court be committed to close custody, until he shall have paid the same. And the Provincial Courts of Adawlut shall administer to such parties so consenting to be examined on oath, and to such witnesses such oaths, as according to their different religions and persuasions, shall be deemed most binding on their consciences; provided that where any witness be of such rank, Cast, or quality

How witnesses are to be sworn

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-ality, that it may be, from the prejudices of the
Country, improper to administer an oath to them,
the Judge of the Court may dispense with their
being sworn, on their subscribing a declaration
to the following effect, to wit, if the witness be
an Hindoo "I will faithfully answer such
"questions as shall be put to me by the Court
" in the cause now before the Court according
"to the truth I will declare nothing not
"warranted by the truth, if I declare any
"thing not warranted by the truth I shall be
"deserving of punishment from Eshwir" and
"in case such witness be a Mussulman
"I do sincerely promise and swear in the pre-
"sence of Almighty God, that I will faith-
"fully, without partiality answer any ques-
"tion put to me by the Court respecting the
"cause now before the Court according to the tru-
"th" — and the testimony and deposition of
such witness or witnesses so subscribing, shall
be read and received as good evidence in the cause
and be filed and recorded in like manner as
if the witnesses had been sworn and the Court
shall cause the deposition of every witness
to be subscribed by the witness with his or
her name or mark, and to be filed of record
and every exhibit or written evidence what-
soever (other than exhibits proved by such
absent witnesses as are herein after mentio-
ned) shall be produced in open Court at the
trial

trial and shall if disputed be duly proved by the examination of witnesses as aforesaid; whose depositions shall in like manner be reduced to writing and signed as aforesaid, and every exhibit shall be Marked with some letter or number to identify the same, and such letter or number shall be referred to in the deposition proving the same.

Exhibits to be marked of reference—

And all exhibits proved by witnesses not present in the Court, as aforesaid shall in like manner be marked and referred to in the depositions proving them; and shall be recorded and marked as being read at the time they are read in the Court.

Manner of taking the depositions of a Hindoo or Mussulman woman who cannot appear in open Court

And in case of any witness being an Hindoo or Mussulman woman of rank or quality, which according to the received usages of the Country would make it improper to compel her to appear in an open Court of Justice, the Courts of Provincial Adawlut are hereby authorized to depute or commission, three credible persons being women (such women being first sworn to execute the said commission faithfully, and truly) to administer to her an oath, or such declaration, as is before required from persons of high rank, according to the discretion of the Judge and the religion of the witness; and to examine such witness on written interrogatories delivered to the persons so deputed, by both parties or their Vakeels if both parties shall desire to examine such witnesses.

[illegible] of their witnesses examined by Commission

And in like manner if any witness or witnesses, whose depositions shall be necessary to the determination of any cause shall live, and reside out

of

of the jurisdiction of the Provincial Court of adawlut, in which the suit is instituted, the Judge of the Provincial Court of adawlut is hereby authorized, by letter signed by himself, and sealed with the seal of the Court to request the Judge of the Provincial Court, in whose jurisdiction such witness or witnesses shall live and reside to administer either an oath, or such declaration as is before required from persons of high rank, according to the discretion of the Judge who shall grant such Commission, and the religion of the witness; and to examine such witness on written interrogatories delivered or transmitted to the Judge so deputed, by both the parties or either of them, if both parties shall desire to examine such witness; and the Judge to whom such letter is directed, is hereby authorized and required to examine each witness named in such letter, according to the requisition thereof, and the person so commissioned, and the Judge to whom such letter shall be directed, shall return the depositions of such witnesses signed by such witnesses, to the Judge of the Court in which the Cause is depending, at the time required by the Commission or letter; and such depositions so taken shall be read and received as good evidence in the cause, and be filed of record; and when the parties shall have been heard, and all the witnesses on both sides examined, the Judge shall give judgement, and shall decree according to justice and right; and where, in any judgment of the Court, the defendants are unable, from pov=

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ty to satisfy the amount of the claims which under the said Court's authority have been decreed against them, such Judge may permit the payment thereof to be made by stated sums or instalments from the defendant, for the fulfilment of which instalments the Court is to take the best procurable security from the defendant, and otherwise attend and enforce their execution as application may hereafter be made by the plaintiff. And if the interest on any claim has accumulated, so as to exceed the principal, may according to his discretion, on the view of the circumstances of the debtor, where the interest has accumulated so as to exceed the principal, reduce it to one half of the principal, or where the interest has exceeded a half of the principal, reduce it to a quarter, and shall order costs to be paid to the party in whose favor the decree shall be made, such costs having been first taxed by the Judge of the Court; and the Court shall cause the decree to be executed, in case any land or house be decreed to the plaintiff, by causing possession of the same to be delivered, and in case of any other property being decreed to the Plaintiff by causing the specific thing to be delivered, or by causing the value of the sum or other thing decreed, to be levied by the sale of the lands, and houses, and of all other the effects either real or personal of the party against whom judgement shall have been given, by public auction or by attachment of the person, or where it shall be necessary both by sale of the effects,

Costs to be taxed and paid by the party cast.

In what manner decrees are to be executed.

and

10

and attachment of the person.

26th

That in all suits of a civil nature
that are relative to succession, inheritance, mort-
gages, loans, bonds, security, hire, wages, marriage
and caste and any other claim to personal or real
right and property, the cause to be decided as far
as shall depend on the point of law by that of the
defendant; the laws of the Koran with respect to the
Mussulmans, and those of the Shaster with respe-
ct to the Hindoos, being thus to be taken as the general
rule for the Judge's guidance, and in all such cases
the Moulavies or Pundits, shall severally attend
to expound the laws of their religion respectively
as applicable to each case in point; but that
in cases of succession to landed property, the Judge
do also ascertain whether they have been regulated
by any general usage of the district, where the
disputed land is situated, or by any particular
usage of the family of the defendant, and do con-
sider in his decision the weight due to such evi-
dence. Besides which in all cases whatsoever,
the Judge is to enquire and satisfy himself
whether there be or be not, an unwritten, yet as-
certained common law (called in Hindostanee Rasm-
ul-mulk, or customary rule of the Country) and
whether this rule be or be not usually applied to
the decision of causes such as the one depending,
whether relating to the claims of an Hindoo or
Mussulman, when if the affirmative be found

That laws of the Shaster and that of the Koran to be invariably followed in matters regarding Hindoos and Mussulmans respectively.

How far this rule may be superseded by the necessity of ascertaining customary or local usage of the Country.

clearly

necessity to be the only, and that such customary pleas appear at the same time duly consistent with the principles of equity, & it is after the precise application to the immediate subject of litigation, together with the above required proofs of propriety, if they be found to exist, shall have been resorted to, specially to those cases, as far as the written and formal codes of the Hindoo and Mahomedan law books are treated as being more obviously and nearly the rule to which the natives have so become habituated.

21st

Causes may be referred, with the consent of the parties to the Rajahs or to arbitrators.

That it shall be competent to the Judges of the Provincial Courts to refer causes, as far as shall be consistent with the free consent of the parties, to the Rajah or Chief of the district in which the subject of litigation lies, provided the parties in view to the local distance, or other cause of convenience to themselves, prefer that mode, or otherwise to arbitrators, to be duly chosen by the parties; in either of which cases the purport or substance of the Rajah's decision or arbitrator's award, to be recorded, and to be thereon carried into effect, provided always that all decisions in civil causes, founded on letters of reference granted at the choice of the parties, from the Judge to the native Rajahs and principal Chiefs be revisable, [illegible] either of the [illegible] of said [illegible], by the Judge of the Court who is then [illegible] to him, appear necessary, to enquire [illegible], and decide on the merits of the

The Judge may revise either the decisions of the Rajahs and Chiefs, but not the award of arbitrators.

cause

cases in the same manner as is already pro-
vided. Or in case the [illegible] shall [illegible] immediate
[illegible], but there shall be no reference
of the matter of arbitration unless being particularly
declared in to Court in writing in consequence
of the parties free choice, of the person or persons
so nominated to arbitrate between them, to
[illegible] which free choice also of arbi-
tration in writing specifying the [illegible] particu-
lars or [illegible] of their cause, under which
shall receive the award of the arbitrators to be
taken by the Court in the first stage of business
and deposited in a [illegible]

Arbitration [illegible] to be taken from the parties [illegible] that [illegible] -

22.

That defendants confined until
they shall have entered into proper security for
the commencement of a cause as is required in
the 19th Article or have satisfied a decree passed
against them on the termination of a suit, be
(if in the opinion of the Judge their poverty
require it) supplied with a sufficient weekly
allowance for their subsistence thro' the proper
Officer of the Court by the plaintiff, in default
of which after the said plaintiff shall have been
insufficiently required to make it, by the Court's
written requisition and warned of the consequen-
ce of his refusal, the defendant to be released.

Plaintiffs to allow a [illegible] sub[s]istence to defen-dants in close custody.

Pl[ainti]ffs not allowing Def[endan]ts provision Def[endan]ts in that case to be released

23.

That if any defendant against
whom a summons shall have issued shall have
absconded, or is not, after diligent search, to be
found

Manner of pro-ceeding, when the defendants

abscond or cannot be found.

found, and the Nazir shall have returned such summons as not having been served, the Court shall cause a writing in the Mahra-
-tta, Canarese or other current language to be stuck up in some conspicuous part of the room in which the Court shall be held, which writing shall contain a copy of the summons and a notice that if the party shall not appear on a day to be fixed (not less than ten days from the time that the same shall be fixed up) the Court will, without further notice process &c. proceed to hear try and determine the cause without the appearance or answer of the defendant. And the Court shall order a copy of the said summons and notice to be read and proclaimed by beat of tom tom in the village in which the defendant last resided, on three several days within the time limited by such notice for the appearance and the Nazir shall return such order with an endorsement stating when and where and by whom such proclamations were made, which shall be filed of record. And if such defendant on whom no summons can be served after such notice and procla-
-mation shall not appear at the time limited in such notice or if any defendant having been served with such summons shall not appear or if having appeared, he shall refuse to give answer or make other default, or shall admit the truth of the Plaintiff's bill of complaint the

If party shall refuse to answer,

Case of non / plaintiff's proce[eding] [illegible]

the Court shall on examining the allegations
of the plaintiff only and the [illegible]
of his witnesses, decree, and give judgment
in like manner as if the defendant had
appeared and answered; and [illegible]
if the plaintiff shall at any time neglect
to proceed in his cause for the space of [illegible]
the cause shall be dismissed except the plain-
tiff can show good and sufficient reason to
the Court for his not proceeding therein; and the
Court may award to the defendant such costs
as he may have incurred in such suit. In case
any defendant for whose appearance security
shall have been taken, shall not appear or
having appeared shall refuse to answer the
plaintiff may at his option, either insti-
tute a suit against such securities on their
engagement in which suit shall be recovered
that which shall be proved due from the
defendant to the plaintiff; or proceed against
the defendant in like manner as defendants
may be proceeded against who have been
served with a summons, and who have
not appeared or who have refused to an-
swer.

24th

That every process, rule, order or
decree of the Provincial Courts of Judicature
(excepting the case hereby otherwise provided
for) shall be immediately served or executed

without

without application to or the interference of any person whatever, according to the regulation thereof within the limits of each Judge's own local jurisdiction. Provided that in any case where any Hindoo or other female or woman, of rank or quality, or any such, according to the ideas of the natives of the country, shall be found and deemed improper to compel her to appear in an open Court of Justice shall be defendant, it shall not be competent for any Judge to compel such defendant to appear in Court to make answer; but he shall in [illegible] thereof issue a summons requiring such defendant to appear, by herself or by her vakeel, at a certain time to be specified in such summons to make answer to the complainant and abide by such orders as shall be made in the course of the cause and such summons shall be delivered to the principal servant of such woman and if such defendant shall appear by herself or by her agent the Court is to proceed to try the cause in the usual manner, or she shall not appear, the Judge shall in that case proceed, on examining the allegations of the plaintiff only, and the depositions of his witnesses, to give judgment in like manner as is provided for other persons not appearing, or making default in the mode already specified —

25th

25th

That the attendance of any persons as parties to any suit, who may be residing without the limits of the Court, should be necessary, the Judge shall address the [illegible] magistrate or dependency, to require the Judge in whose jurisdiction they reside to order their attendance and he is directed to adhere to such requisition without further delay and the same mode is also to be observed for procuring the attendance of witnesses residing within the jurisdiction of the Court in cases where their personal examination in the Court where the cause is trying, shall be deemed necessary for the Judge thereof, notwithstanding what is contained on this point in the 19th Article.

26th

Mode of proceeding against the persons who resist the authority of the Courts.

That if any landholder or any other person shall resist or cause to be resisted any process, order, rule or decree which shall at any time issue from any Provincial Court of Adawlut, on proof thereof being made by Oath to the satisfaction of the Judge of that Court, the Court shall summon such landholder or other person to answer such charge, and if such person shall abscond, so that he cannot be served with such summons he shall be proceeded against in like manner, as other persons who abscond so that they cannot be served with the process of the Court, as already provided for in the 23rd Article. And if such person shall refuse, or neglect to make

Answer

answer, or if the answer being given it shall be proved to the satisfaction of the Court that he is guilty of such charge, the Court shall award and decree that such person being a land-holder, do from the time of the decree then made forfeit his land, and any right and title he or his heirs may have in, or to the same, or if such person be not a land holder, may impose a fine on such person, not exceeding five hundred barons, and cause the same to be recovered by such ways and means, as sums decreed in any cause are to be recovered: reserving to such party to appeal to the Court of the Chief Magistrate; but in case he shall not appeal within the time hereafter limited for appeals then the Court which shall have passed the decree, shall immediately transmit to the Chief Magistrate a copy of the said decree, and of all proceedings therein, and the Chief Magistrate on consideration thereof, shall pass such further orders relative to the cause, either for confirming the decree or procuring further enquiry to be made by the Provincial Court, or on his own, as to him shall appear proper; and if his judgement shall be for confirming such decree, it shall be immediately carried into execution, by causing such land-holder to be provisionally ousted or expelled from the possession of such lands, subject to the ultimate reversal confirmation or alteration of the Governor in Council of Bombay, to whom the Chief Magistrate is hereby required within a term not

Adjudged causes of forfeiture of land to the court of the Chief Magistrate and finally to the Governor in Council.

not exceeding fourteen days from the date of his confirmation of the decree of the Provincial Court to transmit written copies of all the Proceedings held and documents relative to the said Cause, and he is thereon to respect their final judgment, or further instructions, giving on that occasion timely previous notice of not less than ten days to the party against whom the decree of expulsion has been passed, that he (the Chief Magistrate) will receive and trans-mit with the proceedings to Bombay any representations which the party under may wish to submit to that Government, which representation the Chief Magistrate shall if the party deliver it within the time prescribed cause without fail to accompany and make part of his despatch aforesaid after which the party is to remain on shore, until the receipt of the answer from the Governor in Council at Bombay, in confirma-tion thereof or for making further enquiry or reinstating the party to his lands, in such con-dition as they shall prescribe, which orders are to be obeyed accordingly.

Mode of transmitting the proceedings of such cases to Bombay

27th

That the Registers of the Provincial Courts do keep a separate cause book in which shall be entered the several causes for the trial of which a day shall have been appointed by the Court, and shall on the day appointed, or as soon after as the business of the Court will permit, call on such causes for trial in the order in which they shall have been entered and the Court shall

Cause book to be kept for regulating the order of time in which they shall come on to be heard

proceed

proceed to hear try and determine the same as they shall be called, except there shall be some special reason to the contrary; and a paper containing a List of such causes, and the day appointed for their several trials shall be constantly affixed in some conspicuous part of the room where the Court shall be held.—

28th

Rules for the deputation of Aumeens—

That in case of disputed property regarding lands, houses, or the limits boundaries or land-marks of the same, where a local investigation may be deemed proper an Aumeen shall be appointed by the Court, who shall be sworn to make a true and faithful report to the Court, and that he will not take or receive from either party any gratuity or reward, other than such sum as shall be allowed him by the Court; which Aumeen shall at a day certain, to be named by the Court, make his report to the Court in writing subscribed with his name, which said report shall be received by the Court as evidence in the cause, with regard to the matters which the said Aumeen was commissioned to investigate, and no others.

Aumeens form of their Oath.

And the Court shall order (special care being taken that the expences are not unnecessarily incurred by the Aumeen, by delays, or other means) such sum to be paid to the Aumeen as may be deemed reasonable for his pains and trouble; and that such sum be added to the costs, and be paid by the person against whom the decree shall be made.—

29th

In what cases the parties are to be desired to choose arbitrators.

That in all causes concerning disputed accounts, partnerships, debts, doubtful or contested bargains, non-performance of contracts, which shall be instituted in the Provincial Courts of Dewanee it shall be recommended to the parties to submit the decision of their causes to arbitration, the award of which shall become the decree of the Court and so that the parties be at liberty to chuse the arbitrators, who are to decide the cause without fee or reward. And the Judge is hereby directed to afford every encouragement in his power to inhabitants of character, and credit to become arbitrators, but is not to employ any coercive means for that purpose, nor to permit any of his private servants, or any Officer of the Court to be arbitrators in any cause; and that he do recommend, and as far as he can without compulsion prevail on the parties to submit it to the arbitration of one person to be mutually agreed on by the parties.

Officers of the Court not to be arbitrators.

30th

Obligations to be entered into by plaintiffs not amenable to the Court.

That whenever a British subject, or any person under whatever description not being amenable to the jurisdiction of the Provincial Court, shall institute a suit in any Provincial Court, against a person duly amenable to it, it shall be required that besides depositing the fee enjoined by the judicial regulations, he shall sign an instrument according

according to the form hereinafter recited, in the nature of a bond of arbitration, declaring himself subject to the jurisdiction of the Court for so much as shall relate to the said cross question, and bind himself to abide by the award or decree of the Court, in the same manner, and to the same extent as the jurisdiction of the Court is [illegible] against the defendant, and if such plaintiff shall refuse to execute such an instrument, the plaint shall not be received, nor filed.

Form of Obligation to abide and be bound by decision and amenable to the Court.

Know all men by these presents that I
of am held and firmly bound unto of
Esquire Judge of the Provincial Court of Judicature in the Province of Newfoundland in the sum of to be paid to the said his executors, administrators, or assigns, for which payment well and truly to be made, I do hereby bind myself, my heirs, executors and administrators firmly by these presents sealed with my seal, dated this day of in the year of Our Lord one thousand seven hundred and

Whereas the above bound hath on the day of the date hereof commenced an action, cause or suit in the said Provincial Court before the said against

Now the condition of this obligation is such, that if the said his heirs, executors, and administrators, and every of them do and shall on his and their parts and behalf [illegible]

in all things well and truly stand to obey, abide, observe, perform, and fulfil, such final judgment, and judgments, order and orders, decree and decrees, as shall or may be at any time given in the said action, cause, or suit, in the said Provincial Court of Adawlut at   and confirmed in appeal (if the same shall or may be appealed) then this obligation to be void, or else to remain in full force and virtue.

Sealed and delivered
(where no stamps) in the
presence of

34th.

No matter of fact to be ascertained by any other than the Judge, but points of law to be referred to them by the Pundits and Moulavies respectively, and the customary rule of the Country by the Canongoes.

That no Judge of any Provincial Court of Adawlut, shall upon any pretence whatsoever cause to be made any report, [illegible] or [illegible] relating to any cause depending before him, in order to the making of any [illegible], by any Officer or officers, or by any other person whatsoever other than in the cases specially mentioned by these regulations: nevertheless, that it be competent to such Judge to refer any question arising on the Mahomedan or Hindoo law, or the customary rule of the Country, to the Moulavies or Pundits or Canongoes of the Court, respect being had to the law or custom in which each is conversant; and that a statement of facts on which the question shall arise be made out in writing, signed by the Judge of the Court, and be delivered to such Moulavy or Moulavies, Pundit or Pundits, Canongoe

Canongo or Canongos for his or their opinion thereon, and a blank left for the answer, or answers of such Attorney or Attornies, Pundit or Pundits or Canongo or Canongos, to be written on the same paper on which the question is stated, or on that or on a paper firmly annexed thereto immediately under and following the same, and to be signed by, and with the name or names of such Attorney or Attornies, Pundit or Pundits, Canongo or Canongos, together with the date of the time or when such question or questions was or were submitted to him or them, and when such answer or answers shall be given.

32

When arbitrators awards may be set aside.

That no award of any arbitrator, or arbitrators be set aside by any Provincial Court of Adawlut, except on full proof made by two credible witnesses that the arbitrators had been guilty of gross corruption or partiality, in the cause in which they had made their award.

33

Punishment of Contempt.

That if any person or persons be guilty of any contempt to the Court in open Court, or of undue arrogations of the authority of the Provincial Courts or of illegal exertion of judicial authority in their own causes, the Court may immediately punish such person or persons by a fine of pieces not exceeding sixty four [illegible] or two hundred Rupees each and by holding such person or persons in custody till

till such fine or fines shall be paid; due respect being had to the rank and circumstances of the person or persons thus offending in respect to the amount of the fines.

34th

Mode of proceeding when witnesses are guilty of perjury

That if any person be guilty of wilful and corrupt perjury, in any cause or matter depending in Court, the Court may immediately commit such person to the Foujdary or criminal Court to be proceeded against according to law.

35th

or in cases of suits vexatiously or otherwise unduly instituted

That where any person shall have commenced a suit, in any Provincial Court of Adawlut, and shall pending that suit, or after any decree made therein, commence another suit in any other Court of Adawlut for the same cause, or if any person shall commence any suit in any Court of Adawlut, which shall appear to the Judge thereof, to be frivolous vexatious and totally groundless, the suit shall not only be dismissed with such costs as the Court may think proper to award, but such Plaintiff may be committed to close custody for a time not exceeding one month, or may be ordered to receive corporal punishment not exceeding twenty lashes according to the degree of the offence and the persons situation in life.

36th

Deposits to be taken at the commencement of suits.

That no fee or commission on receipt of money recovered, or on the decision of suits,

any

any other fine whatsoever, except such as are allowed by these regulations, be received on any pretence whatsoever: and that a deposit of one per cent shall be taken in every plaint filed at the commencement of a cause. That Judge keep a faithful account of the deposits paid at the commencement of each cause and of all fines imposed by the Court, and do transmit an account together with the amount thereof to the Chief Magistrate at the expiration of every Month —

Monthly return of deposits & fines

37th.

Regulation [illegible] Paupers

That at the commencement of any suit, in any Provincial Court of [illegible] if it shall be proved to the satisfaction of the Judge of the Court in which the suit shall be commenced, by the oath of the Plaintiff and of two credible witnesses that they believe such oath to be true, that the Plaintiff is after all his just debts paid not worth more than the sum of thirty two hoons or one hundred Rupees, exclusive of the value of the deposit by these regulations required to be made, it shall be competent for the Judge of the Court in which the cause shall be instituted, in lieu thereof to accept either malzamany or security to the amount of such deposit and of such costs and fees as the Court shall think likely to be incurred (or hazirzamany personal security) to be respectively endorsed by the

Plaintiff

plaintiff, and two good and sufficient securities, according to the discretion of the Judge. That where a Bonagyanning shall have been given the Judge shall, if the suit be determined against the Plaintiff, cause the amount of the deposit of the fees, and of Costs, to be paid to the Registrar of the Court; and where a Bagyzamaning shall have been given, and the Plaintiff shall have failed in his suit, the Judge if he shall deem the suit frivolous or vexatious and the Plaintiff shall not pay the amount of the deposit of the fees and Costs shall and is hereby authorized to commit such plaintiff to close custody for any space of time not exceeding three months, and if the said two securities shall not produce such plaintiff so that he may be proceeded against as aforesaid, if such securities shall not cause such deposit, fees, and Costs to be paid the Court shall, and is hereby authorized to commit such securities to the Common Jail for any space of time not exceeding three months; and such Plaintiff who shall have been so committed shall after he has been confined accordingly be discharged and exonerated from the payment of costs in like manner as if the decree awarding the same had been fully satisfied by the payment thereof, and if in such case the decree be for the Plaintiff such [illegible] shall be [illegible] to the Costs [illegible] required to

be

added where the deposit is paid at the Commen-
cement of the suit, and the Plaintiff shall
at the time the cause shall be ready for
execution pay such sum so added into
Court, to be accounted for as deposits are hereby
ordered to be accounted for.

35th

No person to plead in any suit, excepting a principal or Vakeel duly constituted.

That no Complainant be received
from any other person, than the Plaintiff
in any Cause nor any answer from any other
person than the defendant, except such per-
son shall produce, and cause to be filed of
record, a Vakeelutnamah or written au-
thority, signed by the party for whom he
appears and sealed with his seal in pre-
sence of two witnesses, constituting him
Vakeel of such party in the cause, and if
he be on the part of the Plaintiff authori-
zing him to commence the suit, and if
for the Defendant to defend; and unless
the party executing the same shall thereby
undertake to abide by, and confirm all such
acts, matters and things which his Vakeel
so constituted shall do or undertake in his
behalf in the cause as if he had himself
been present, and and consenting and
no act whatsoever shall be done or ad-
mitted, nor any person heard viva voce,
in any stage of the Cause, except the
Plaintiff or defendant, or the person by
them

them respectively in whose name or names [illegible] were [illegible] until [illegible] shall have been filed of record—

39th

Summonses to be written in the Country languages.

That every summons, or other process under any of the seals of the Court to be served or executed on any person whatsoever be written or printed in the Malabar, Tamul, Hindoostanee or other current languages sealed with the seal of the Court and signed by the Judge thereof.

40th

Certification to be made by the Judge in the case of his rejecting any written evidence.

That if any paper or other evidence be offered to any Provincial Court of Adawlut in any Cause depending therein if the Court shall in their judgement think fit to reject the same, the Judge or Judges rejecting such evidence shall endorse on the back thereof the word "Rejected," together with the name of the Cause and of the party who offered to produce the same and the date of the time when the same shall be rejected, and shall enter a memorandum on the same or on a paper thereunto to be annexed, of his reasons for not admitting the same in evidence with his name subscribed thereto, and shall return the same so endorsed to the person who offered to produce the same in evidence—

41st

41st

Rules for recording [illegible] decrees

That the Judge in every Provincial Court of Circuit do in every decree recite the names of the witnesses on whose depositions, and the exhibits of every exhibit read in such cause respectively upon which the decree of the Court shall be founded, and such decree shall be sealed with the seal of the Court and signed by the Judge thereof in his own proper handwriting, and dated on the day on which the same shall have been passed: and the said Judge, or the Register, either at the time of making the decree or on a day of which the Court shall give notice to the parties or their Vakeels, shall in open Court deliver or tender to each party, or their Vakeels not exceeding ten days after the date of such decree or such of them as shall attend, a true copy of such decree, authenticated by the seal of the Court, and signed by the Judge thereof, with an endorsement thereon made by the Register, of the date when such copies were delivered, and an entry of such delivery or tender, with the date on which the same was made, shall be made by the Register on the margin of the record opposite to the decree and that the value of the thing decreed be in all cases specified with as much accuracy as possible, in such decrees to be delivered to the parties; that is to say if the subject of the decree be revenue land, that its annual Jumma, or rental payable to Government be specified, and if not free land its annual produce and if house or houses or [illegible] personal property the worth thereof according to the nearest estimation

20

42nd

That in every Provincial Court of Adaw-
=lut a book be kept in which the daily Proceedings of
each cause, and every order, and act of the Court shall be
minuted, in the Mallabar, Tamool, or Cannary lan-
=guages, and each day signed by the Judge of the Court;
that the several complaints, answer replications,
and rejoinders of the parties and every deposition,
exhibit, and paper whatsoever, read, and filed in
the cause, be referred to in such minutes by marks or
numbers corresponding to marks or numbers which
the Judge shall cause to be endorsed on the same, &
when the same are read in the cause that complete
records numbered in the order in which the causes
shall be tried be kept in the Provincial Courts of
adawlut in the following form, that at the Conclu-
=sion of every cause, the petition, answer, reply, and
rejoinder, and other pleadings, and allegations, acts
and defaults of the parties, depositions of wit-
=nesses exhibits, and all other evidence all orders
of Court, and returns thereto, in the order in which
they were made, the decree or Judgment and the
return made specifying how the same hath
been executed, and all proceedings whatsoever shall
be written on a roll of strong paper, in the lan-
=guage in which the petition, answer other plea-
=dings, depositions, or exhibits, shall originally and
respectively have been made, so that every order,
& act of the Court be uniformly entered in the
Mallabar, or other Country or Coast language, and
if the depositions or exhibits be in the English,

or

or in any other than the Malabar, or in any other Coast language, that such depositions or exhibits be entered in the language in which they were made or written, together with faithful translations of the same into the Malabar language; and such record shall be authenticated by the seal of the Court, and signature of the Judge and countersigned by the head Moonshy, and be kept in this form by the Register of the Court, among the muniments of the Court, and shall be and remain a record of the Court, and any copy thereof authenticated by the seal of the Court, and signature of the Judge, and countersigned by the Register or head Moonshy, shall be deemed and received as good evidence of such record in any Provincial Court of Malabar.

43rd

[illegible] to the Court of Appeal

That each Judge shall cause to be kept, in a distinct register in the English language, a summary account of his daily Proceedings in each cause, containing the names of the Plaintiff and defendant, the substance of the cause and of the decree made thereon, the date when the complaint was filed and when the decree was passed and delivered to the parties, and shall transmit the same monthly to the Chief Magistrate in his Court of Appeal.

44th

[illegible] to the Court of Appeal

That all persons considering themselves aggrieved by the decision of either of the Provincial Courts of Adawlut, may appeal to the Court of the Chief Magistrate by Petition of

Appeal

appeal, so that every such Petition against any decree of the Provincial Court of [illegible] be presented to the said Court within ninety days after the day on which the decree was made. Provided nevertheless, that such person may prefer his petition of appeal to the Court of Appeals after, on shewing just and reasonable cause to the satisfaction of the Court of Appeals, for not having preferred the same within the aforesaid period, and if the Petition of Appeal be against any decree whereby the right of possession of any house or land shall be decreed to the Plaintiff, all proceedings shall immediately be stayed, and no execution had or possession given under the decree appealed against, until the said appeal shall been finally determined in the Court of Appeals if the party against whom the decree is given, will enter into good, and sufficient security, in a sum equal to one years value of the rents issues, and profits of the land or house, which shall have been decreed, to abide and perform such order as shall be made in the Court of appeals; but if such party shall neglect or refuse to enter into such security, on or before the Court day next after such appeal shall be presented, then the Provincial Court of [illegible] shall order execution to be had, and possession to be delivered according to the decree; and in all other cases the Court may either order the decree to be carried into execution, or that sufficient security be given by the party against whom the

decree

decree shall be made in a sum equal to the sum of money, or the value of the thing decreed for the performance of the decree; and if the decree shall be in other cases security shall be taken from the party in a bond from the decree in a sum equal to the sum of money or the value of the thing decreed, for the due performance of such order or decree as shall be made in the court of appeals: and in all cases the party appealing shall besides give full and sufficient security, in a sum not exceeding one hundred and sixty hoons or five hundred Rupees for the payment of such costs and for the performance of such order or decree as the Court of appeals may think proper to award or make thereupon and in every case where any petition of appeal shall be presented in any Provincial Court of adawlut against any decree given in such Court, and such securities as are hereby required shall have been entered into, the Judge of such Provincial Court of adawlut shall immediately endorse on such Petition in his own hand writing the day of the Month and year on which it was presented, and sign the same with his name and shall likewise make a note in the margin of the record & immediately opposite to the decree of the Court "appealed"; and shall not hence forward exact or receive any deposit on account of such appeal but shall receive every petition of an appeal without requiring any deposit, and transmit the same to the Court of appeals in like manner as if such deposit had been made, and the Judge shall cause notice in writing to be given to the appellant that he will within ten days transmit to the court of appeals the several procee-

dings

[illegible]

-decreed him in the cause appealed and that if the appellant shall not proceed in his appeal within one month after the same shall have been received by and filed in the Court of Appeals, his appeal will be dismissed unless he, the Appellant, can show reasonable cause to the satisfaction of the Court of Appeals for not proceeding therein.

45th

Manner of transmitting the Proceedings in any Cause appealed to the Court of Appeals.

That the Judge of the Provincial Court of Adawlut shall within fifteen days next after the receipt of such appeal transmit to the Court of Appeals the petition of appeal, together with the original complaint, answer, replication and rejoinder of the parties and the original depositions, exhibits, and every original paper read in the cause with translations of the same, and shall before he transmits the same cause true and faithful copies of all such originals authenticated by his own signature and the seal of the Court and by the signature of the [illegible] to be made out and deposited in his custody instead of the originals, which copies shall be and shall be esteemed records of the Court, and shall be received as evidence in any other Provincial Court of Adawlut.

46th

To obey the Orders of the Court of Appeals.

That the Judges of the Provincial Courts do comply with, and execute all orders, rules and regulations whatsoever as shall be transmitted to them respectively by the Court of Appeals.

47th

Prevent [illegible] to have no influence

That every Judge of any Provincial Court of Adawlut do use his utmost care and attention to prevent the influence of his private servants

in any Cause depending, or intended to be brought before the Court and to prevent them from having any Communication with the parties.

48th

[Margin: Law to be punish'd for taking money]

That any Servant or Dependant of the Judges of the Provincial Courts of Ceylon who shall receive any money or other valuable consideration, or any present whatsoever directly or indirectly, or from any party in any Suit depending in any Court of Circuit, shall be committed as for a contempt of the Court and shall be punished by a fine equal to treble the sum of money received, or by imprisonment, or by corporal punishment at the discretion of the Judge of the Court in which the offence shall have been committed or of the Court of Appeal on a complaint being referred to the Chief Magistrate in his Court of Appeal or otherwise at his discretion, as provided for in the latter part of the 3d Article, and the Judge of the Provincial Court or Courts in which such offence shall be committed is hereby required and enjoined to discharge such servant and never to employ him directly or indirectly, in any business whether public or private.

49th

[Margin: Judges to make a circuit of the Country under their jurisdiction]

That in view of more effectually administering justice to all classes of inhabitants of the Country, it is, and is hereby declared a rule binding on the Judges of the Provincial Courts, that from the 1st day of October to the 31st day of March, in Company at their discretion, they remain not at the head station of their respective Courts,

Cour

be provided with their offices, and for the dimension, during all the four Months in question, or occasionally, tho' the several parts of the districts under their respective Jurisdictions, remaining in each for so long a period as the local business may require, in such manner as to pass thro all the principal parts of their respective jurisdictions, once in the space of each, or where this cannot be effected of two seasons, to the end that their judicial influence, power, and control may as speedily and effectually as possible be felt and understood to pervade every branch of the administration, so as to secure every one in his just rights—

50th

The Judges to adhere to these regulations—

That the Judges of the respective Provincial Courts of Adawlut are hereby strictly enjoined and commanded, in every act, matter, or thing by them to be done, strictly to adhere to these rules and regulations; and to all other rules of practice and standing orders for the administration of Justice which shall hereafter be transmitted to them from the Court of the Chief Magistrate, which is in future to be styled the Court of Appeals, under the seal and attestation of the said Courts.

51st

That in all cases within the jurisdiction of the Provincial Courts of Adawlut for which no specific directions are hereby given, the respective Judges thereof do act according to justice, equity, and good conscience.

[illegible]

That the [illegible] to commence and to take place from the 1st day of [illegible] One thousand seven hundred & ninety three.

[illegible] — marginal note

[illegible]
[illegible]
[illegible]

[illegible]
12th June [illegible]

Extract from the Regulations for the conduct of Magistrates regarding the Police &c.^a taken from the Calicut Regulations framed on the 8th July 1793 by Jonath.^n Duncan, Wm Page Chas Boddam & Alex.^r Dow.—

Article

Duties of the Mufty Mou-laves & Brah-mins of the Courts, as assessors & Expound-ers of the Law, & the Establis-hed Customs as well in this as in the Superior Fou-jdary Court, as in the Supe-rior Civil Courts—

4th The Duties of the Mufty & the Moulaves, & of the Pundit & Namboory, consist 1st in acting as assessors to the Derogha in his enquiries in all trials that come before the said Foujdary Court 2ndly in pointing out, and delivering their written expositions of Law as applicable to each case to be drawn up from the ascertained state of facts, on each trial—& 3rdly in serving also as assessors to the Civil Courts, at their respective stations, & as Expounders of the respective Laws of each Religion; as well as of the particular Rules & Customs of each distinct Cast, to the Superintendents, or to the Head assistant of the Supervisor (as the case may be) in their respective capacities of Judges of the said several Courts of Civil Jurisdiction, as established under the 15th June 1793.—

General Description of the Duties of the Superior Magistrates

10th The Duties of the respective Magistrates are to consist in [illegible] within their own jurisdiction exerting his best endeavours towards the general preservation of the Peace, throughout the same [illegible] using as well all due precautionary measures to that end, as by apprehending & bringing to Justice all who infringe on & break thro' it, such as murderers, Rebels, House breakers, Thieves and all other Disturbers of the Public Peace.—

Engagements to be taken from the Landholders & from suspected persons are to be

11th The preventive measures to be taken by the Magistrates as aforesaid are to consist, first in the observance of what is already pointed out on this subject in the 64th & 65th Art. of the Revenue Regulations, passed on the 9th June

apprehended

June 1793 – 2ndly in the said Magistrates taking from each Landholder for the several local extents of their respective estates (as a requisite, & essential condition towards giving Validity to their respective Tenures, or to Government's recognizing, or allowing of any settlement, that may be made with them, either directly by the Officers of Government, or thro' the Rajahs, or Superior Nazir for their several proportions of the Publick Revenue) an Engagement to be executed by the Canongoes, binding each of them for the Extent of their own Jelm, Jenin, or Jemee (i.e. Tenures in land) not on any account to harbour murderers, Robbers, Rebels, Thieves, or other Disturbers of the Peace: but on the contrary to give immediate notice of all such persons to the nearest authority, or principal local officer on the part of Government that is, to the next Station of a Tehseildar or Collector either of the Revenues or Customs, or to the nearest Subordinate or local native Judge (as directed to be appointed by the Regulations of the 2nd July last) or (if more contiguous) to either of the Judges, of the Superior Courts or to the Canangoes established in their respective Districts, to the end that advice being dispatched from those inferior to the said Delinquents (or persons charged to be such) such may in the discretion of the Judges of the Superior Courts be thereon immediately apprehended, or where there shall be danger of escape the said Collector, or local magistrate (the thieves, or other disturbers of the peace, here referred to being supposed to be out of these latter subordinate Magistrates' Jurisdiction, since, if within the same there will themselves seize them, as a matter of course) may, if they think they can prevent such escape, by immediately apprehending the

the party, proceed to secure his, or their persons, accordingly, and having succeeded therein, they are to deliver them up to the Magistrate or to the nearest Foujedary Station, together with a Soorutthaul, by which term is meant a report of the case in writing containing such information, as may enable the Magistrate to satisfy himself by sending for the proper witnesses or otherwise, concerning the guilt of the party, or parties thus apprehended; whom it shall not be in the power of the Native Officers apprehending them, either to discharge after having once apprehended, or to detain in Confinement without advising the Magistrate above 1. 2, or 3, or at most (to be understood & regulated according to the local distance from the seat of the Superior Magistrate) but the duty of such native officer, shall consist in his forwarding to the Superior Magistrate as aforesaid the earliest notice (not extending beyond the periods here limited) of all such apprehensions by him made, & in delivering up the parties in safe custody as speedily as may be in the manner & with the written information aforesaid, and when the Native Officer, or Officers aforesaid shall either think, the nature of the case will admit of his sending previous notice to the Superior Magistrate or shall deem his own means unequal to the apprehending of the Murderer, Rebel, Robber, Thief, or other Disturber of the peace as aforesaid, he is without delay to advise the Magistrate thereof, to the end that the latter (if he shall judge the case to require it) may dispatch a proper force to secure the party, or parties thus denounced to him —

Similar Engagem.ts to be taken, from the Keepers of all Liquor Shops

12.th The Superior Magistrates shall also take engagements from all sellers of Spirituous Liquors, within their respective districts, not to harbour any murderers, Rebels Robbers, thieves, Gamblers or other description of disorderly persons or Disturbers of the Peace & binding them

Penalty to be incurred by them for the breach thereof.—

them to give immediate notice of all such persons to the Magistrate on pain (to be specified in their said Engagements) that if they should harbour any such person or persons, their liquor shops shall be immediately shut up & they themselves never again permitted to open or keep any others; besides being subject to such further punishment, by fine, or Corporal punishment (within the limits hereafter prescribed in the 21st Art: for the discretion of the said Magistrates in all similar cases) as to the Magistrate shall seem meet—

What Engagements are to be taken from the Rajahs & on the same account

13th. A Clause, or stipulation to the same purport as the engagement to be taken from all Landholders (as [per] 11th Art.) shall also be inserted in each Raja, Zemindar, or other Superior Landholder's, Cabooleat or Revenue Engagement) to Government (with whom any fixed stipulation is, or shall hereafter at any time be entered into binding such Rajah &c to the payment of a certain Revenue) for the extent in general of the Lands included in such engagement, which shall not however supersede the concurrent rule for Magistrates taking similar or concurrent subordinate engagements from all the principal and other Landholders (including Temple & free Tenures) paying their revenues thro' such Rajah, so as that no part of the Country be at any time left without being included in, & falling under one of such particular, or local engagements; besides this eventual, or occasional general one, which is to be taken from the Rajas, & when these latter are responsible for the payment to Government, of a fixed amount of Rental, arising out, & on account of their Districts respectively.—

Penalties to be stipulated for the Landholders breach of their aforesaid Engagements—

14th. All such separate engagements from the several Subordinate Landholders (as specified, & referred to in the 11th Art.) to contain a farther express condition, that if any of them shall be proved to act in contradiction to the terms, and true meaning thereof they shall be

subject either to such fine, as the Superintendent, acting as Magistrate, shall with the concurrence of the Supervisor, as Chief Magistrate, think just, to exact; or in voice to the repetition of such acts, or ever where the case shall (in the 1st instance) be of a very atrocious nature, be liable to incur, & suffer entire dispossession, subject to the rules laid down for such cases in the 64th & 65th Art: of regulations already quoted in the Code for the Revenue Department.

Discretion to be used in respect to the insertion of the above penalty clause, in the engagements with the Rajas,

15th But as the insertion in the Rajahs own eventual or annual engagements of the penal clause, or stipulation as provided for in the last, or 14th Art: might prove offensive to their feelings, it is not to be required from them, (altho' the purport, & spirit thereof is to be esteemed equally binding on them) unless in such Cases where the Supravisor, as Chief Magistrate in concurrence with the opinions of the other Magistrates respectively, shall be assured that the insertion thereof, would not occasion any material disgust, wherefore this point is left to their discretion; subject of course, (should there be any difference of Sentiment) to the ultimate determination of the Chief Magistrate. —

Motives for the Institution of the Local subordinate Courts of Cannanore, Quylandy, Trevangarry, Panany, Betutnaad, Chetwa & Paulghaut.

16th That as far the charge of the Police & the more full, & effectual diffusion of Justice in the Towns of Cannanore, & in the Township of Quylandy, for that town & for Cotta, & at Trevanangarry & Panany, & in Betutnaad & Chetwa, there have (by the Supplementary Regulations passed on 2nd July 1793 for the Civil administration of Justice) been appointed Cauzees, or Mohammedan local magistrates, & to Paulghaut, a Hindoo Judge for that, & the adjoining districts, (to be each assisted by a Moulavee & Brahmin, learned in their several laws, & also in the Customs of their respective Casts) with suitable allowances, as provided for & particularized in the Seperate regulations above referred to, It is for the purpose of the Foujdary & Police Regulations, here declared that the duties of the said Subordinate Local

Magistrates

The limits, nature & extent of their respective Jurisdiction in respect to Case of Criminal Cognizance

&

What Causes they are to send up to the Superior Court for Trial

Magistracies, shall consist in maintaining (subject to the constant superintendence of, & appeals to the British Magistrate of their respective divisions) the Peace within, & throughout their respective Towns & Townships, & Districts & the limits, and precincts thereof with authority themselves to hear, & decide on all complaints, or prosecutions, brought before petty offences, such as abusive Language, inconsiderable assaults, or slights affrays & to punish the same when proved by Corporal Chastisement, not exceeding 39 Lashes or imprisonment not exceeding 25 Days or by fine not exceeding 20 Rupees, & in all complaints & charges preferred to them, where either the Offence, shall be of so serious a nature, as by the Law of the Religion of the Defendant, to require a heavier punishment, than here limited, the said Cauzee, or (at Baulghaut) Hindoo Judge do in all such cases send on the Plaintiff with a Letter from himself to the British Magistrate, on whom he is dependant, by reason of such local Courts being situated within such British Magistrates Division of the Province, to the end, that such complaints, or Causes may be heard, tried, & decided on according to the Regulations for those Superior Courts.

Appointments of local Judges & Officers, to be vested in the Chief Magistrate.

&

Mode of animadverting on enquiring into their Conduct.

19.th The Appointment or Removal of all of these local Judges, as also of the Officers annexed to their several Court Establishments, are to rest solely with the Supervisor, in his Capacity of Chief Magistrate, but they are in the execution of their Offices to be placed altogether under, and subordinate to the Southern & Northern Superintendents, whose duty it shall be, & they are hereby enjoined to Report to the Supervisor, every act, or instance of misconduct, or Corruption ascertained, or presumptive, or neglect of duty that may come to their knowledge, in respect to the heads, or any of the Officers of these Subordinate Jurisdiction, & it shall become thereon the indispensable duty of the Supervisor in his capacity of Chief Magistrate to make such enquiry into the merits of the Case, in the ins-

-tance

-stances thus represented, or in any other that may come thro' any other Channel, to his knowledge, as may ascertain whether any of the said local Judges, or any of their officers, thus charged or complained against are culpable either of wilful misconduct, or neglect of Duty, in either of which Cases he is to proceed thereon as directed, in the 1.st Art. of the Supplementary regulations passed on the 2.nd July 1793-

British Magistrates, to decide in petty causes of a Criminal & nature-

21.st It shall not however be necessary, nor is it expected, that the Magistrate is to refer trials to the Foujedary Court, for Petty Offences, against the Police, or otherwise, such as for abusive Language, or inconsiderable assaults, or petty Brawls or affrays; for in respect to all these, he is empowered & directed himself to enquire into, and decide on them, (keeping a regular record of all his proceedings) & to punish the same, when proved by Corporal Chastizement, not exceeding 40 Rattans, or Stripes, or Imprisonment not exceeding the term of One Month, or by a Fine, within the amount limited & specified, in the next article; but that in all cases of Homicide, or of maiming, or of violent affrays, accompanied by Bloodshed, or of Robbery, Theft, or other material, & important breach of the peace, or being in any case such as would (if regularly & formally tried in the Foujedary Court) probably subject the said party, or parties to a greater degree of punishment, or Penalty, than herein specified; the Trial of all such case, or cases be remitted, as above prescribed to the Criminal Court.-

Measure of punishment which he is authorized to inflict-

May dispose of the fine imposed in satisfaction to the Party injured-

22.nd That in Cases where a Fine shall be levied, on the Defendant as above allowed of, the whole, or such part thereof, as the Magistrate shall think fit may be by him awarded to the Plaintiff in satisfaction to him for the injuries or Damage he may have sustained by the injurious act, by which he shall be proved to have suffered, & on the contrary, where the Complaint preferred, shall appear to be litigious vexatious, and groundless, the Magistrate is authorized

&

to

also punish those, who prefer vexatious and groundless accusations.

to inflict a punishmt. or impose a penalty, either by imprisonment, flogging, or amercement, (regard being had to the nature of the case, & situation in life, & Rank of the parties) on the Complainant, provided that neither such imprisonment, flogging, or fine, be longer more severe, or larger than is specified & referred to in the 21st Art: & in case it be by fine, to adjudge such part thereof to the Defendant, as the said Magistrate may think fit, by way of Indemnification, for the trouble which such Defendant, or Defendants shall have been unduly put to by the unfounded, or vexatious charge or charges, which the Plaintiff shall have unjustly preferred, but the fines that may be thus imposed (whether on the party complained against, or the unjust accuser, by the authority of the provincial, or inferior British Magistrate, without reference formal trial in the Foujedary Court shall in no case exceed the one tenth proportion of the known annual net Income whether from land otherwise of the party thus amerced nor shall it in any case exceed 200 Rupees, & whenever such fine, shall exceed even 100 Rupees, it is not to be levied till the case shall have been reported by the Superintendent, in his capacity of Magistrate, to the Supervisor, in the latter's capacity of Chief Magistrate of the Province, & have obtained his Sanction.

Limitations put to the said Magistrate's discretion in respect to the mode of punishment by fines

English & Country records to be kept by the British Magistrate.

23rd That all complaints with the Orders on them, be recorded in the Magistrates office both in the English, & Malabar or Canarese Languages.

Monthly returns to be made to the Chief Magistrate.

24th That authenticated copies of all complaints, & Orders passed thereon both in the English & Malabar, or Canarese Languages be forwarded monthly to the Chief Magistrate, at Calicut, with a return specifying the names

of

of the persons apprehended, the date of apprehen-
-sion & whether they have been remitted for
Trial to the Native Fouj[e]dary or Criminal Court
or punished by the Magistrates own Order
in any of the modes above authorized, or
acquitted and released—

Attention to the due trial of cases of criminal nature considered as the primary duty of the British Magistrate—

26.th The Superintendents & Senior Assis-
-tant are as Magistrates, to consider it as their
first & most incumbent duty in preference
to all others to bring all matter relative to
persons apprehended by them to as speedy a
determination as possible, so as to enable
them to decide within 3 or 4 Days at most,
after the apprehension of the party, or parties
so in custody, (as much sooner as possible) on
their respective cases, as far as immediately
depends on their own authority respectively, &
that is, relative to the trial, and acquittal, or
degree of punishment which he is himself
authorized to adjudge or relative to the said
parties being remitted for Trial to the Fouje-
-dary Court, & in respect to the latter he is
to procure the expediting of the Trial as far
as in him lies, by affording every assistance,
that may be required by the Deroghα, on the
part of the Court, in respect to the appearance
or attendance of Witnesses, or otherwise.—

Constant attention to be paid to the Jails & to the health of the Prisoners—

27.th The Custody & Charge of the Fouje-
-dary, & of all the other Jails, at his own Station
(not of course including those of the local Su-
bordinate Courts) are to be in the respective
Magistrates, in like manner, as are those
of the Subordinate Courts to be in the Native
Judges, are hereby severally required, to visit
the said Jails personally at least twice in
every Month & to cause particular atten-
=tion

-tion to be paid to the cleanlyness of the Jails, & the healthiness of the Prisoners for which purpose, the said Magistrates and Subordinate Native Judges, are respectively to cause such Measures to be adopted towards preserving the salubrity of the Jails, or for particular diet to the Prisoners, as may from time to time be suggested, by the Surgeon of the Station whose immediate duty it must be to have the medical charge of all the Prisoners in the several Jails at the Stations of the Superintendents & Senior Assistant, as aforesaid, or by the Native Doctor to be attached to the Jails, at the Stations of the local Subordinate Judges.—

The medical Case of the Prisoners to be with the Surgeon of the Station

Jails, to have seperate Wards, & the Foujedary to be kept seperably from the other prisoners & in distinct classes, according to the nature of their respective Cases—

28.th The Foujedary Prisoners are to be kept in a seperate house or Jail from those, who are confined either for Debt, or Civil Suits, or for the Revenue, & there are also to be seperate Wards in the Foujedary & the other Jails, so as to admit of those, who are sick being kept distinct & seperate from the Prisoners, who remain in health, & for those who after trial shall be condemned to temporary, or other imprisonment, or other punishment to be confined in seperate apartments from those whose trials are not completed; & there must also be a similar distinction observed in respect to the custody of those, who on their first apprehension, have not yet undergone the previous enquiry, which the Magistrate is to make, from that of the parties whom after such previous enquiries he has committed for the ultimate Trial of the Foujedary Court.—

30.th That, in consideration to the novelty

And in respect to Rajas, & those of their family or principal Ministers—

novelty of any regular System of Criminal & Jurisdiction in the Province of Malabar, neither the British, nor any of the Native Magistrates do, in the first Instance or without communicating with the Chief Magistrate, apprehend (Sh.d even the information before them, regularly require it) any Rajah in Chief, or any of the Nephews such Rajahs, or the principal Karrigar or Minister of either of them respectively, but instead thereof that they do report the case to the Superviser, in his capacity of Chief Magistrate, who is therein after satisfying himself by farther enquiry, on his own part that there are just grounds of Criminal charge, against such Rajah, Nephew or Minister, as aforesaid, either himself to cause, or to write to the inferior British Magistrate, & cause such Nephew, or Minister (according as the case may relate to either) to be taken into safe custody, till he give bail to stand his trial, provided the case or fact, charged against him, shall exceed the limits, within, which the British Magistrates are by the 21.st & 22.nd Art. themselves empowered to try & decide, since in all such slighter cases, the matter in issue, may with sufficient security be brought to a determination without taking either such Nephew or Minister into Custody; & where Rajas in Chief (which will seldom, or ever happen) are guilty, or charged on probable Grounds, with such crimes as by the preceding regulations, are only cognizable by the Superior Criminal Courts the Chief Magistrate is himself without imposing any disgrace on such Raja in Chief to proceed (on being advised of the Case by the British Magistrate of the Division or otherwise) to enquire into the case & to report the same to the Governor in

Council

Council at Bombay, & thereon to accept & be guided by the Decision, & Instruction of that Govern=
=ment, whether or not to subject such Rajah to the Ordinary mode of Trial in the Native Criminal Court, for such act or acts by him committed, or what other course shall thereon be pursued.

Regulation

A Concurrent jurisdiction is Vested in the Magistrates of the several divisions and their Police Officers in the Cases and under the restrictions following Viz.t The Daroghas and Police officers subject to the Authority of the Magistrate of each division are empowered either under his Warrant, or without such Warrant, to pursue persons Charged with Crimes, or misde=
=meanors, into the jurisdiction of other Daroghas whether subject to the same Magistrate as them=
selves, or to the Magistrate of any other of the divisions. The Magistrates, Daroghas Police Officers Rajahs Landholders, Farmers Cultivators of land, and all other persons, having Authority or residing in the jurisdiction into which the offenders may be pursued, are required to afford every Assistance in their Power, to the pursuing Officers for the apprehension of the Offenders. It is to be under=
stood, however, that this Concurrent authority, vested in the Magistrates and their Police Officers, is to extend only to Cases in which the Crime or misdemeanor shall have been Committed within their respective jurisdiction, or (in the event of the Crime having been Committed in any other jurisdiction) where the Offender was actually within their jurisdiction, when the Charge against him was preferred to them, and it shall not be lawful for the Magistrate or Darogah,

of

of our jurisdiction to issue a Warrant for the apprehension of any Offender being preferred to them for any Crime, or misdemeanor, not Committed within the limits of their respective jurisdictions In such Case the Complain-ant must apply in the first instance to the Magistrate, or to the Darogha of the jurisdiction in which the Crime, or Misdemeanor, shall have been Committed or in which the offender may reside, or be found.—

A true Copy
signed) Jas. Law
Acty Secry

A true Copy
signed) J. A. Grant
Secry

The Chief Judge and Magistrate of the Province or the Commissioners for executing that Office, for the time being shall require the respective Judges of the Northern and Southern Division and the Senior Assistant at Calicut, in quality of Judge of the Middle Division, to make strict enquiry into the Characters of those, who on being tried in the Foudary Court for private stealing, Robbery, House breaking, or any other Criminal Offence, not justifying a sentence of Mutilation or death, by the Mahommedan or Hindoo Law, or the Custom of the Country shall be found guilty of such Offence, and Condemned to a punishment of 39 or more and a further punishment by stripes, or other species of disgrace, when enlarged; and if it shall appear on such enquiry that the Prisoner or Prisoners are of notoriously bad Characters, such Provincial Judge shall report the same, when he forwards the Proceedings in such trial for the Opinion of the Chief Judge and Magistrate or the Commissioners for executing that Office, for the time being, who may on due Consideration of such report, Commute such Sentence of Stripes, imprisonmt and other Species of disgrace into transportation for five Years; provided the report hereby required from the Provincial Judge shall Consist of the deposition on

Oaths

Oath of the Parbutty or Menon, and of the Canengoe or Gomastah of the Part of the Country where the Prisoner's ordinary place of residence, is, and also the deposition on Oath of at least two of the Prisoner's nearest neighbours, being heads of Families, and fixed Inhabitants, and it shall be necessary that all these different testimonies Concur as to the reputed habitual turpitude or Criminality of the Party or Parties in question.

Calicut
5th Septr. 1798

A true Copy
Signed/ Jas. Law Secry.

Amended Rule relative to the Commutation of punishment for adjudged Loss of Limbs recd. 22d. Octr. 1798

In as much as it is desirable to Maintain, where ever particular reasons do not militate against it a general coincidence in the rules for the administration of Justice, under the several Presidencies; and this Government, considering also that the Term of Imprisonment which has been substituted in the Regulations of the Bengal Government, for the punishment of Mutilation, is in view to the local Circumstances of Mallabar, to be from Experience preferred to the Shorter periods now Authorized by the Criminal Code for that Province It is accordingly Ordered, that future Sentences by the Criminal Courts there, to lose one Limb, shall be commuted from the receipt of this Rule into imprisonment for seven year, and those to lose two Limbs, into alike Punishment for fourteen years, and the Governor in Council is authorized, under the discretion in this respect allowed by the Mahomedan Law to order any Prisoner sentenced to imprisonment for life, or for alimited period, the same being for seven Years or upwards, to be transported to same place beyond sea, and the Commissioners for executing the office

of

of Chief Magistrate of the Province of Malabar, are to cause a written proclamation to be read and affixed in their Cutcherry as well in the Cutcherries of the Southern and Northern Superintendencies and in those of the Criminal Courts, notifying that all persons who may be sentenced to be confined for life, or for a term of seven years and upwards for murder, robbing or plundering or burning houses, or property, or any other Crime of a heinous nature, will be liable to be sent to same place beyond sea by order of the President in Council to whom a Reference is to be made by the Commissioners in all instances wherein they shall consider the parties convicted to be proper objects for transportation, under the Sentences passed against them for imprisonment.

A true Copy
(Signed) Robert Rickards
Secretary

A true Copy
Signed) Jas. Law
Secretary

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Regulations for the administration of Justice in the Provincial Courts of Adawlut, and in the Court of Appeals in the Province of Mallabar.

1st

Superintendent

That the Office of Judges of the Provincial Courts (being those under the Superintendents) [b]e respectively held by that person who hath, or shall [h]ereafter have the charge of the revenue in each respective [p]lace with the exception of the Court now established [i]n the capital City of Calicut which is to continue independent of any Superintendency, for the decision [o]f all causes originating within the limits of the said [C]ity and district thereunto annexed.

2d

That every person appointed a Judge [o]f any Provincial Court before he shall enter upon the [e]xecution of his Office, do before the Governor in Council [o]f Bombay, or such person as shall by the Governor [i]n Council be deputed to administer the same, or the [S]upravisor and Chief Magistrate of the Province of [M]allabar, take and subscribe an Oath in the following words-

"I do swear that I will administer "Justice to the best of my ability, knowledge and jud-"gement without fear, favor, promise or hope of reward, "and that I will not receive directly or indirectly any "present or nuzzer, either in money or effects of any "kind, from any party in any cause, or from any "person whatsoever, on account of any suit to be ins-"tituted, or which may be depending or have been "decided in the Court of Adawlut under my jurisdic-"tion, nor will I knowingly permit any person "or persons under my authority, or in my immedia-"te service to receive directly or indirectly any pre-